

Application No. 10/717,098

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Reply dated 30 July 2007

Responsive to Office Action mailed on 15 June 2007

REMARKS

Claim Rejections

Claims 1, 3, 5-11, and 14 over Mason

These claims were rejected under 35 U.S.C. § 102(b) or in the alternative under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent 3,559,648 to Mason ("Mason" hereinafter).

Claim 1 recites that the fecal material storage element has laterally opposing longitudinal side edges disposed on opposing sides of the longitudinal axis of the claimed article and that the fecal material storage element extends contiguously between these laterally opposing longitudinal side edges. The term "contiguous" means "touching or connected throughout in an unbroken sequence <contiguous row houses>" (Merriam-Webster Online Dictionary). Thus, as shown clearly in Figures 1 and 2 of the present Application, all portions of the fecal material storage element 25 are connected throughout in an unbroken sequence all the way from the left longitudinal side edge, which is disposed to the left of the longitudinal axis, to the laterally opposing right longitudinal side edge, which is disposed to the right of the longitudinal axis.

In the Office Action, the two laterally opposing infolded panel portions 25 of Mason's absorbent pad 10 were equated to the claimed fecal material storage element. In the Response to Arguments section of the Office Action, it was stated that "[a]s previously argued, the claims do not require the fecal [material] storage element is a single element. Both panels comprise the fecal [material] storage element." It is believed that the first of these two statements actually describes something that the Examiner has asserted, rather than something that has been argued by the applicant. More importantly, even if these two statements were assumed to be accurate, *arguendo*, they do not affect the failure of Mason to teach or suggest all of the claim limitations. In order for an element of Mason's diaper to be equivalent to the claimed fecal material storage element, this element would have to extend contiguously between two laterally opposing longitudinal side edges that are disposed on opposing sides of the longitudinal axis. Applying this requirement and the definition of the term "contiguous" to Mason's infolded panel portions, this requirement means that the left and right infolded panel portions would have to touch or be connected throughout in an unbroken sequence all the way from a left longitudinal side edge, which would have to be disposed to the left of the longitudinal axis, to a laterally opposing right

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longitudinal side edge, which would have to be disposed to the right of the longitudinal axis. However, Mason's left and right infolded panel portions are separated by the central channel 30 that is deliberately formed between them. Hence, even if Mason's two infolded panel portions were considered, *arguendo*, to form a single two-part structural element, the fact that they are separated by the central channel 30, rather than being contiguous, makes the two-part element different from the claimed fecal material storage element.

It was also stated in the Office Action that “[t]he fecal material storage element 25 [i.e., the infolded panel portions] of Mason has laterally opposing longitudinal edges disposed on either side of the longitudinal axis as see [*sic; seen*] in Figure 5. Each panel 25 extends contiguously between the longitudinal side edges.” However, each of the two separate infolded panel portions actually extends only from its own laterally outboard longitudinal edge to its own laterally inboard longitudinal edge, both of which are disposed on the same side of the longitudinal axis. In other words, each of the two separate infolded panel portions has its own two laterally opposing longitudinal edges, both of which are disposed on the same side of the longitudinal axis. Therefore, neither of the two separate infolded panel portions extends between laterally opposing longitudinal side edges disposed on opposing sides of the longitudinal axis, as in the claimed structure.

Hence, even in combination with each other, Mason's two laterally opposing infolded panel portions 25 are not equivalent to the claimed fecal material storage element, because neither one of them individually, nor the combination of both of them together, extends contiguously between laterally opposing longitudinal side edges disposed on opposing sides of the longitudinal axis of the article. Therefore, Mason fails to teach or disclose all the limitations of Claim 1 and thereby fails to anticipate this claim. In addition, Mason provides no suggestion or motivation to modify its teachings to make the present invention. Instead, it teaches the desirability of the central channel and, by doing so, also makes it apparent that the elimination of the central channel would render the resultant diaper unsuitable for its intended purpose.

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Summary with respect to rejections of Claims 1, 3, 5-11, and 14

The requirements for an anticipation rejection and the requirements for the establishment of a *prima facie* case of obviousness have not been met with respect to Claim 1 or Claims 3, 5 through 11, and 14, each of which depends from Claim 1 and thereby contains all of its limitations. Accordingly, it is respectfully requested that the rejections of Claims 1, 3, 5-11, and 14 over Mason be withdrawn.

Claims 2, 4, 12, 13, and 15-20 over Mason in light of Matthews *et al.*

These claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over the same U.S. Patent 3,559,648 to Mason in view of U.S. Patent 4,397,644 to Matthews *et al.*

As noted above, the Mason reference is insufficient for the rejection of Claim 1. Independent Claims 15 and 17 likewise contain the aforementioned limitations discussed with respect to Claim 1 and thus are not properly rejected over Mason, for the same reasons as Claim 1. The incorporation of the bonding disclosed in the Matthews *et al.* reference as proposed in the Office Action fails to correct the deficiencies noted above with respect to Claim 1.

Therefore, the requirements of MPEP 2142 and MPEP 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to independent Claims 1, 15, and 17. The rejected dependent claims depend from these independent claims and thereby contain all of their limitations. Accordingly, it is respectfully requested that the rejections of Claims 2, 4, 12, 13, and 15-20 over Mason in light of Matthews *et al.* be withdrawn.

Claims 13, 15, and 16 over Mason in view of Matthews *et al.*, Jones, and Meyer *et al.*

These claims were rejected under 35 U.S.C. § 103(a) as being unpatentable over the same U.S. Patent 3,559,648 to Mason in view of the same U.S. Patent 4,397,644 to Matthews *et al.* and further in view of U.S. Patent 3,593,717 to Jones and U.S. Patent 4,798,603 to Meyer *et al.*

As noted above, the Mason and Matthews *et al.* references are insufficient for the rejections of Claim 1, from which Claim 13 depends, and of Claim 15, as well as Claim 16, which depends from Claim 15. The incorporation of aspects of the disclosures of the Jones and Meyer *et al.*

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references as proposed in the Office Action fails to correct the deficiencies noted above with respect to the requirements of MPEP 2142 and 2143.

Therefore, the requirements of MPEP 2142 and MPEP 2143 for the establishment of a *prima facie* case of obviousness have not been met with respect to Claims 13, 15, and 16. Accordingly, it is respectfully requested that the rejections of these claims be withdrawn.

Summary of this Reply

The failure of the cited references to teach or suggest all of the limitations of the rejected claims has been explained. Accordingly, the timely allowance of the pending claims is respectfully requested.

Respectfully submitted,
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